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EXAMINER	
STEIN, JULIE E	

ART UNIT	PAPER NUMBER
2688	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,022	KJELLBERG ET AL.	
	Examiner	Art Unit	
	Julie E. Stein, Esq.	2688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5-26 and 28-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5-26 and 28-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

REQUEST FOR ADDITIONAL INFORMATION

1. The Applicant is thanked for responding to the request for additional information even though there was none available.

Response to Amendment

2. Due to the amendments to the claims, new rejections have been made. As an example, the new limitation in claim 1 of "wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber" has not previously been considered.

3. Claims 2-4 and 27 have been canceled by the filed amendment.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellipsus White Paper – InfiniteMAP, dated February 12, 2001 (Ellipsus). The Examiner has included a copy of "GPRS-Applicability and Expectations" by Erik Bladh and Anna Eidegard, not as prior art, but simply as containing a clean version on page 28 of the figure on page 3 of Ellipsus.

Claim 14 recites, a method comprising:

maintaining, in a server system (page 3), data defining a plurality of domains (page 3, this is inherent based on the multiple device capabilities, user profiles, products, etc,. indicated by the integration components), each of the domains representing a billing relationship between a business entity and a particular subset of a plurality of wireless services subscribers (page 3, Figure, Billing System in Integration Components), and wherein the plurality of domains further represent a partitioning of content designed for use in wireless communication devices for purposes of making the content available to the wireless services subscribers (page 3, context manager);

enabling a plurality of digital product providers to publish digital products on the server system (page 4, product provider interface);

enabling each of the subscribers to view descriptions of the digital products and to request the digital products from the server system (page 4, user manager interface);

and provisioning the requested digital products in wireless communications devices of the subscribers via at least one wireless network (page 4 and 7).

Ellipsus also discloses all the steps of claim 15, including wherein said maintaining data defining a plurality of domains comprises maintaining, in the server system data defining an association between each of the subscribers and one of the domains. See page 3, the Figure and the context manager and the integration components.

Ellipsus also discloses all the steps of claim 16, including executing a payment process to charge the subscribers for said provisioning. See page 7, flow for downloading application and billing.

Ellipsus also discloses all the steps of claim 17, including maintaining a product catalog containing descriptions of the digital products. See page 4, specifically the user manager interface and the product provider interface.

Ellipsus also discloses all the steps of claim 18, including enabling the digital product suppliers to manage digital products which they have cause to be published on the server system. See page 4, the product provider interface.

Ellipsus also discloses all the steps of claim 19, including determining a price for each of the digital products independently for each of the plurality of domains. See pages 3, 4 and 7, where products and billing systems and flows are illustrated.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 5-6, 9-10, 23-30 are rejected under 35 U.S.C. 103(a)) as unpatentable over Ellipsus White Paper – InfiniteMAP, dated February 12, 2001 (Ellipsus). The Examiner has included a copy of "GPRS-Applicability and Expectations" by Erik Bladh and Anna Eidegard, not as prior art, but simply as containing a clean version on page 28 of the figure on page 3 of Ellipsus.

Independent claims 1, 23, 24, and 30 are all taught by Ellipsus.

The rejection of claim 14 is hereby incorporated. Ellipsus teaches all the steps of claim 1 including, a method of providing access to content for use on wireless communication devices (page 1), the method comprising:

operating a server system (page 3, the Figure, InfiniteMAP Architecture) to store domain data defining a plurality of domains (page 3, the Figure, cylinder in integration components section, it is inherent that there would be multiple domains based on different devices capabilities and user profiles) each domain representing a different subset of a plurality of wireless services subscribers (Id.), wherein each of the domains further represents a billing relationship between a business entity and the corresponding subset of the plurality of wireless services subscribers (page 3, the Figure, Billing System in Integration Components), and wherein the plurality of domains further represent a partitioning of content designed for use in wireless communication devices

for purposes of making the content available to the wireless services subscribers (page 3, context manager);

operating the server system to enable a plurality of content suppliers (page 3, Figure, product provider in API users box and page 4, product provider interface) to publish on the server system content designed for use in wireless communication devices via a computer network such that the content is accessible to the plurality of wireless services subscribers (Id.); and

operating the server system to enable wireless services subscribers in each of the plurality of domains to acquire the content via at least one wireless network and to use the acquired content on associated wireless communication devices (page 4).

However, Ellipsus does not explicitly teach wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber. But it would have been obvious to one of ordinary skill in the art at the time the invention was made to understand that the concept of scaling the number of wireless services subscribers in a given subset, e.g. the plurality of wireless services subscribers, is well known in the art and as legal precedent. See MPEP 2144.04(IV).

The rejections of claims 1 and 14 are hereby incorporated. Ellipsus teaches all the elements of claim 23 including, a system comprising:

means for maintaining an association between each of a plurality of subscribers of wireless services and one of a plurality of domains into which the plurality of subscribers are grouped (see above), each domain representing a group of the wireless services subscribers and including a different subset of the plurality of subscribers (see

above), wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber (see obvious statement above), wherein each of the domains further represents a billing relationship between a business entity and the corresponding subset of the plurality of wireless services subscribers (see above), and wherein the plurality of domains further represent a partitioning of the content designed for use in wireless communication devices for purposes of making the content available to the wireless services subscribers (see above); and

means for managing publication, management and delivery of digital content by a plurality of content suppliers to the subscribers in each of the plurality of domains (see above).

The rejections of claims 1, 14, and 23 are hereby incorporated. Ellipsus teaches all the elements of claim 24 including, a system to provide digital content from a plurality of digital content providers to a plurality of wireless services subscribers using a plurality of wireless communications devices (see above), the system comprising:

a domain manager to maintain an association between each of the wireless services subscribers and one of a plurality of domains into which the plurality of wireless services subscribers are grouped (see above), each domain representing a different subset of the plurality of wireless services subscribers (Id.), wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber (see obvious statement above), wherein each of the domains further represents a billing relationship between a business entity and the corresponding

subset of the plurality of wireless services subscribers (see above), and wherein the plurality of domains further represent a partitioning of content designed for use in wireless communication devices for purposes of making the content available to the wireless services subscribers (see above);

a product manager to manage publication of digital content designed for use in wireless communication devices on the system by the plurality of digital content suppliers (page 4, product provider interface);

a delivery manager to manage delivery of an item of digital content designed for use in wireless communication devices to a wireless communications device of a requesting subscriber via a wireless network in conjunction with a received request for the item of digital content (page 4, provisioning manager); and

a payment manager to execute a payment process for charging the requesting subscriber for the item of digital content (page 3, the Figure, Billing System).

The rejections of claims 1, 14, 23, and 24 are hereby incorporated. Ellipsus also teaches all the elements of claim 30 including, a system to manage publication and delivery of digital content to users of a plurality of wireless communications devices operating on a wireless network (page 3, the Figure, right side of figure), the users being wireless services subscribers (see above), the plurality of wireless client devices being registered to and operable by the users to access the wireless services (inherent based on above), the system comprising:

a domain manager to maintain data defining an association between each of the subscribers and one of a plurality of domains into which the subscribers are grouped

(see above), each domain defined as a group of the wireless services subscribers and including a different subset of the plurality of subscribers (see above), each of the domains representing a billing relationship between a business entity and a particular subset of the plurality of subscribers (see above), wherein each subscriber is a member of exactly one of the domains (this is inherent based on each mobile user/phone/PDA/etc. is unique and thus would only fit in one subset, also see page 4, the description of when a user purchases a product, specifically step 2), wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber (see above), and wherein the plurality of domains further represent a partitioning of content designed for use in wireless communication devices for purposes of making the content available to the wireless services subscribers (see above);

a set of protocol handlers (page 3, Figure, provisioning workflow, specifically WAP, Web, XML), each protocol handler to enable the system to communicate with wireless client devices over at least one wireless network using a separate associated protocol (Id.);

a product manager to manage submission and publication of digital content by a plurality of content suppliers (page 3, Figure, API), wherein the product manager includes

a product catalog containing descriptions of available digital content (page 4), and

a pricing manager to determine and indicate a price for an item of digital content in response to a signal from a wireless communications device of the plurality of wireless communications devices (see above), wherein the price is determined according to a domain in which a requesting subscriber is included (see above);

a delivery manager to manage delivery of the item of digital content to the mobile client device via at least one wireless network in conjunction with a received request for the item of digital content (see above); and

a payment manager to execute a payment process for charging the requesting subscriber for rights to use the item of digital content (see above).

Ellipsus also discloses all the steps/elements of claims 5-6, 26, and 28-29, including wherein each of the subscribers is a member of exactly one of the domains (this is inherent based on each mobile user/phone/PDA/etc. being unique and thus would only fit in one subset and on page 4, describing the description of when a user purchases a product, specifically step 2, which teaches providing a context driven portal based on user profile, device type, etc.); and the plurality of domains further represent a delegation of administrative responsibilities for the content and the subscribers (see page 3, the various managers, including authenticator, session, and context).

Ellipsus also discloses all the steps of claim 9, including operating the server system to enable the content suppliers to manage their respective content stored on the server system via the computer network. See page 4, the product provider interface.

Ellipsus also discloses all the steps of claim 10, including determining a price for each of the items of content independently for each of the plurality of domains. See page 7.

Ellipsus also discloses all the elements of claim 25, a product catalog containing descriptions of available digital content (page 4, see the user manager interface), and

a pricing manager to determine and indicate a price for an item of digital content in response to a signal form the wireless communications device of the requesting subscriber, wherein the price is determined according to a domain of which the requesting subscriber is a member (page 7).

9. Claims 7-8, 11-13, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellipsus in view of U.S. Patent Application Publication No. 2001/0037192 to Shimamoto et al.

Ellipsus teaches all the steps of claims 7, 11, and 20, except currency for billing purposes for each domain. However, Shimamoto teaches that in addition to language, pricing should also be taken into consideration. See paragraph 15. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify Ellipsus to take into consideration the currency of the wireless subscribers in view of the language they speak that their user profiles indicate, as yet this would be another addition to their user profile and further identify the user.

Ellipsus teaches all the steps of claim 8, 12, and 21, except determining the language used within each independent domain. However, Shimamoto teaches that language is one factor to be considered when determining/publishing data to wireless

subscribers. See Figure 3, paragraphs 64 and 14. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Ellipsus to take into consideration the language of the wireless subscribers as it is yet another part of the user profile and device capabilities already used by Ellipsus to identify users.

The rejections of claims 7-8, 11-12, and 20-21 are hereby incorporated. Ellipsus in view of Shimamoto teaches all the steps of claims 13 and 22, including, the language and currency determinations for the domains. See above.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/600,746. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending

application are broader versions of the currently pending claims and therefore the current claims could be used to reject them.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

12. Applicant's arguments with respect to claims 1, 5-26, and 28-30 have been considered but are moot in view of the new ground(s) of rejection.

13. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

14. Applicant's first argument simply recites the claim language and states that the art does not disclose or suggest the recited features. There appears to be no indication as to why the cited reference and specifically the cited parts of the reference in the Office Action do not disclose or suggest the recited language.

15. In addition, as to the inherency argument, Applicant simply states that each domain representing a different subset of a plurality of wireless services subscribers is not inherent, which the Examiner clearly disagrees with. However there is no additional argument by Applicant, except for a citation that defines inherency. Therefore, this argument is also simply a general allegation of patentability.

16. Finally, Applicant did not address the provisional obvious type double patenting rejection at all.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie E. Stein, Esq. whose telephone number is (571) 272-7897. The examiner can normally be reached on M-F (8:30 am-5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JES

GEORGE ENG
PRIMARY EXAMINER